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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/520,564	09/29/2005	Frank Buhl	71828	5271

7590 04/16/2007
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EXAMINER

DESTA, ELIAS

ART UNIT PAPER NUMBER

2857

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/16/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/520,564	Applicant(s) BUHL ET AL.	
	Examiner Elias Desta	Art Unit 2857	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 September 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Drafterson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Detailed Action

Title

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: 'Method for Monitoring the Installation of a Measurement Device'.

Abstract

2. The abstract is objected to because of the following minor informality: delete the reference text noted on page 11, line 20 of the abstract page.

Specification

3. The specification is objected to because of the following informalities:

The specification refers to claims 1 and 8 (page 1, lines 11-12); claims 2-7 (see page 3, line 3); claim 8 (on line 8; and claims 1 to 7 (see page 5, line 36). The reference to these claims is not appropriate because during prosecution the status of claims may change and require an amendment to the specification. In fact, the preliminary amendment by the applicant has already cancelled these claims and the specification is showing the canceled claims. Applicant is required to make the changes and amend the specification based on the guidelines noted in MPEP, which are incorporated as a reference below.

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The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

Drawing

4. The drawing is objected to because of the following minor informality:

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- No figure number is assigned to the drawing, and boxes 1-4 should be labeled as to function.

Claim rejection – 35 U.S.C. 112

5. Claims 15-34 are rejected under 35 U.S.C. 112, second paragraph, because the term "correctly or incorrectly" in claims 15, 22 and 30 is a relative term which renders the claim indefinite. The term "correctly or incorrectly" (see preliminarily amendment to the claims on page 2, 3 and 4; last lines in each claims respectively) is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Further, the preamble alludes to a method for monitoring a measurement device whereas the steps taken including the outcome are actually directed to monitoring the installation of the device rather than the device's functionality. One way to look at would be, the preamble should be 'a method for monitoring [the installation of] a measurement device ...' rather than simply "a method for monitoring a measurement device ...".

The time series measurements, the characteristic values or the reference values are not definite values or variables. However, these values are used in a function in order to generate an error or a status signal where the status signal or outcome is used in a determination of the status of the installation of the device. Establishing a correlation or making a comparison between indefinite variables or values does not make the overall outcome definite either.

Claim rejection – 35 U.S.C. 101

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

7. Claims 15-34 are rejected under 35 U.S.C. 101 because the claimed invention is not supported by either a specific asserted utility or a well established utility.

In reference to claims 15, 22 and 30: The instant specification includes “a characteristic variable, D () ...[which] have been determined experimentally using a described environment in a specific disadvantageous installation conditions (for example by the manufacturer)” and yet applicants have not provided any experimental data or an example to show otherwise. Further, in the instant claims applicant has stated that the system “compares” the characteristic variable with “previously recorded reference values” (see claims 1, 22 and 30) for the measurement device and yet the specification does not show the extent of “comparison” and how this “comparison” is implemented.

None of the variables mentioned in the claims are associated with a known parameter value that establishes an applicable mathematical relationship for a “real world” application. The equations noted in the specification at best represent a theoretical analysis that amounts to an abstract idea. Therefore, the support for claims 15-34 is actually based on these concepts that may not materialize to a “real world” value, in other words, the claimed invention lacks patentable utility.

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8. Claims 15-34 are also rejected under 35 U.S.C. 112, first paragraph. Specifically, since the claimed invention is not supported by either a specific asserted utility or a well established utility for the reasons set forth above, one skilled in the art clearly would not know how to use the claimed invention.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. Hoepken (U.S. Patent 5,757,672) teaches a method of enhancing the safety of operation and security of systems and installations having multiple condition response sensors.
- b. Izui et al. (U.S. Patent 5,305,235) teaches a monitoring diagnostic device for an electrical appliance having a plurality of neural elements.
- c. Shearer et al. (UK Article, 'Elements of Precision Agriculture: Basics of Yield Monitor Installation and Operations') teaches a method of helping farm equipment operators and farm managers to select, install and operate a yield monitor and functions of those components and methods for ensuring accuracy of data.
- d. Yeh et al. (NIST Article, 'Ultrasonic Technology: Prospects for Improving Flow Measurements and Standards') teaches a method of improving understanding of ultrasonic flow measurement to assess its potential for improving flow measurements, and to test the

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performance of selected travel-time meters where the tested meters' data is collected and simulated on a computer to study the installation effects.

e. Thomas et al. (IEEE Article, 'Installation of a Power Monitoring System in a Large, Multiple Power Source, Industrial Facility') teaches justification, specification, design and installation of an on-line, real time power and demand monitoring system.

f. Zaretaskii et al. (PPC Article, 'Installation with a Set of Preference Electromagnetic Flowmeters') teaches a flow meter installation type URM 2000 for testing electromagnetic flowmeters with some basic tolerable errors.

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elias Desta whose telephone number is (571)-272-2214. The examiner can normally be reached on M-Th (8:30-7:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc S. Hoff can be reached on (571)-272-2216. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

3. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

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like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Elias Desta
Examiner
Art Unit 2857

- E.d

- March 28, 2007

